

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEN OUTDOORS INC.,
a Delaware Corporation,

Plaintiff,

-against-

DEN CONSTRUCTION LLC., an Arizona
limited liability company,

Defendant.

ORDER TO SHOW CAUSE

22-CV-00484 (PMH)

PHILIP M. HALPERN, United States District Judge:

Den Outdoors Inc. (“Plaintiff”) initiated this action by filing a Complaint on January 19, 2022. (Doc. 1). Approximately three months later, on April 14, 2022, Plaintiff filed a Declaration of Service indicating that Den Construction LLC (“Defendant”) was served on April 7, 2022. (Doc. 8). Plaintiff thereafter secured, on May 16, 2022, a Clerk’s Certificate of Default as to Defendant. (Doc. 15). As of the date of this Order to Show Cause—almost five months after service was purportedly effectuated on Defendant and more than three months after the Clerk’s Certificate of Default was issued—there has been no further activity in this case.

Under Federal Rule of Civil Procedure 41(b), “a district judge may, *sua sponte*, and without notice to the parties, dismiss a complaint for want of prosecution” *Taub v. Hale*, 355 F.2d 201, 202 (2d Cir. 1966); *see also West v. City of New York*, 130 F.R.D. 522, 524 (S.D.N.Y. 1990) (“[T]he Supreme Court has recognized the inherent power of a district judge to dismiss a case for the plaintiff’s failure to prosecute.”); *Lewis v. Hellerstein*, No. 14-CV-07886, 2015 WL 4620120, at *1-2 (S.D.N.Y. July 29, 2015) (dismissing complaint for want of prosecution after the plaintiff failed to file an amended complaint or submit other filings to the court for four months); *Haynie v. Dep’t of Corr.*, No. 15-CV-04000, 2015 WL 9581783, at *1-2 (S.D.N.Y. Dec. 30, 2015)

(dismissing complaint for want of prosecution after the plaintiff failed to respond for six months). Plaintiff's failure to prosecute this action has impeded the Court's efforts to "avoid calendar congestion and ensure an orderly and expeditious disposition of cases." *Cortez v. Suffolk Cty. Corr. Facility*, No. 15-CV-01957, 2016 WL 6302088, at *2 (E.D.N.Y. Oct. 25, 2016).

Accordingly, it is hereby **ORDERED** that Plaintiff show cause in writing on or before October 3, 2022 why this action should not be dismissed without prejudice for want of prosecution under Rule 41(b). Failure to respond to this Order will result in dismissal of this case without prejudice for want of prosecution.

SO ORDERED:

Dated: White Plains, New York
September 1, 2022

A handwritten signature in black ink, appearing to read 'PHM', with a long, sweeping checkmark-like stroke extending from the end of the signature.

PHILIP M. HALPERN
United States District Judge